

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1059 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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MANGALDEEP FINANCE PVT.LTD.

Versus

STATE OF GUJARAT

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Appearance:

MR BR GUPTA for Petitioner

MR SS PATEL ADDL PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 10/12/1999

ORAL JUDGEMENT

#. Heard learned counsel appearing for the petitioner Mr.Gupta. Rule. Mr.Patel, learned APP appears and waives service of rule for respondent State. On consent of the both the parties, this matter is taken up for final hearing today.

#. The grievance of the learned counsel appearing for

the petitioner is that the application of the company praying for custody of the vehicle is thrown away on technical ground that no responsible officer of the company had applied for the custody of the vehicle. It is not a matter of dispute that all the concerned parties have consented to the effect that the vehicle can be handed over to the appellant company. The learned Magistrate and the learned Sessions Judge could have passed the appropriate order directing the applicant that on furnishing the surety by duly constituted attorney of the company, the vehicle can be handed over to the company through that constituted attorney. I agree that the person who had applied for the custody of the vehicle before the learned JMFC was not even officer of the company, so the case was considered in proper perspective. It seems that there was way out of this contingency when nobody was resisting the release of the vehicle from the police custody as the same is deteriorating each day. Looking to the time spent, and the day of vehicle seized, the order of remanding the matter before the learned JMFC with appropriate directions may further prolong the matter and also give rise to multiplicity of proceedings. Mr.S.S.Patel, learned APP appearing for the respondent State fairly concedes that appropriate directions may be imposed and the vehicle can be handed over on furnishing adequate surety to the constituted attorney. Thus, in view of the above position, the vehicle is ordered to be released on furnishing surety of Rs.30,000/- by the responsible officer of the company by way of interim arrangement on the following terms and conditions;

- (1) The petitioner shall produce the vehicle as and when called during the course of trial.
- (2) The colour and the body structure of the vehicle shall not be changed and / or altered and the vehicle should be kept in roadworthy condition.
- (3) The petitioner shall file an undertaking to the effect that the petitioner shall ply the vehicle in question in accordance with law and the same will not be used in any similar type of crime.
- (4) The petitioner shall make the payment of tax and any any other outstanding, dues and / or penalty as may be due to the concerned authority.

Rule is made absolute accordingly. Direct Service is permitted.

Date : 10-12-1999 [C.K.Buch, J.]

#kailash#